



PUBLIC NOTICE

Federal Communications Commission
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DA 04-2092
July 13, 2004

ENFORCEMENT BUREAU SEEKS COMMENT ON SBC'S REQUEST TO DISCONTINUE AUDIT OF SBC'S COMPLIANCE WITH MERGER CONDITIONS

CC DOCKET NO. 98-141

Comments Due: July 27, 2004

Reply Comments Due: August 10, 2004

On June 9, 2004, SBC Communications Inc. ("SBC") submitted a letter requesting that the Commission no longer require it to engage an independent auditor to examine its compliance with the conditions of the *SBC/Ameritech Merger Order*¹ for all periods beginning on or after January 1, 2004.² Condition XXVII of the Commission's *Merger Order* requires SBC to retain an independent auditor on an annual basis to conduct a compliance audit for all merger conditions in effect during the period, and to publicly file a report with the Commission.³ Because SBC's request effectively asks the Commission to eliminate Condition XXVII for future periods, we seek comment of interested parties prior to making a determination.

EX PARTE STATUS AND PRESENTATIONS

Because of the policy implications and the potential impact of this proceeding on persons not parties to this request, we find it would be in the public interest to treat this case as a permit-but-disclose

¹ *Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer of Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules*, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712 (1999) ("*Merger Order*"). The Enforcement Bureau is also seeking comment on a similar request by Verizon with respect to the Bell Atlantic/GTE Merger audit requirements in CC Docket No. 98-184. See Public Notice, "Enforcement Bureau Seeks Comment on Verizon's Request to Discontinue Audit of Verizon's Compliance with Merger Conditions," DA 04-2093 (rel. July 13, 2004).

² See Letter from Jim Lamoureux, Senior Counsel, SBC Telecommunications, Inc. to William H. Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated June 9, 2004 ("*SBC Request*") (attached to this Public Notice). Pursuant to the Bureau's request, SBC supplemented its request with a filing on July 7, 2004, providing additional information regarding the conditions that sunset after May 31, 2004. See Letter from David Cartwright, to Diana Lee, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated July 7, 2004 (attached to this Public Notice) ("*SBC Supplemental Letter*").

³ See *Merger Order*, 14 FCC Rcd at 14882-84, ¶¶ 410-12 (Appendix D, 14 FCC Rcd at 15034-35, ¶ 66). See also *Delegation of Additional Authority to the Enforcement Bureau*, 17 FCC Rcd 4795 (2002) (delegating authority to the Enforcement Bureau to carry out merger-related audit and compliance tasks).

proceeding under the Commission's *ex parte* rules.⁴ *Ex parte* presentations that are made with respect to the issues involved in this proceeding will be allowed but must be disclosed in accordance with the requirements of section 1.1206(b) of the Commission's rules.⁵

FILING PROCEDURES

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before July 27, 2004, and reply comments on or before August 10, 2004.⁶ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case, CC Docket No. 98-184. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ernestine Creech, Room 3-A247, Investigations and Hearings Division, Enforcement Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or Acrobat Reader. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 98-184), type of pleading (comments and reply comments), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send a diskette copy to the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, or via e-mail at joshir@erols.com. A courtesy copy of all comments should be provided in an IBM compatible format using Word or Acrobat Reader via e-mail to diana.lee@fcc.gov.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

⁴ 47 C.F.R. §§ 1.1200(a), 1.1206.

⁵ 47 C.F.R. § 1.1206(b).

⁶ 47 C.F.R. §§ 1.415, 1.419.

- The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, (202) 418-0270. They may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone 1(800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at joshir@erols.com.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.48 and all other applicable sections of the Commission's rules.⁷ We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

For further information, contact Trent Harkrader, (202) 418-2955, trent.harkrader@fcc.gov, or Diana Lee, (202) 418-0843, diana.lee@fcc.gov, of the Investigations and Hearings Division, Enforcement Bureau.

Action by the Chief, Investigations and Hearings Division, Enforcement Bureau.

⁷ See 47 C.F.R. § 1.49.